

**In the Matter Of:**

DUNIGAN vs OFFICER NUGENT, ET AL.

CHARLES F. LANDERS, M.D.

February 09, 2018

*Prepared for you by*



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<p>1       Q. (By Mr. O'Loughlin) Right. And I am just 2 trying to narrow it to that and make sure that I am 3 not missing anything because you do understand that 4 this is my only opportunity to learn your opinions 5 before trial?</p> <p>6       A. I understand that. And my intent is to 7 focus as mentioned.</p> <p>8       Q. Okay. Do you have any opinions as to 9 violations of the standard of care on the part of 10 any of the licensed health care professionals, 11 physicians, EMTs, nurses, radiologists or anyone 12 else who was a licensed health care professional 13 involved in Mr. Dunigan's care on May 6, 2016?</p> <p>14      A. No, and that would include the unlicensed 15 employees of the hospital and Bronson, like the 16 registration people as well.</p> <p>17      Q. Okay. Do you have any opinion as to 18 whether the health care professionals involved in 19 Mr. Dunigan's care from the presentation at the 20 emergency department through the time that Mr. 21 Dunigan was discharged to the waiting room, in that 22 period of time, do you have any opinion as to 23 whether any of those people in any way violated 24 EMTALA?</p> <p>25      A. I have no opinion about that.</p>	<p>Page 29</p> <p>1       Q. But you are the one we are deposing today 2 so I just want to confirm what your opinions are. 3 You mentioned another item. Based upon your review 4 of the medical records themselves over the time 5 period I have talked about, in other words, up 6 through the time Mr. Dunigan was wheeled into the 7 waiting room, was his condition stable?</p> <p>8       A. It was felt to be by the people providing 9 care. And the extent to which it may have been life 10 threatening was not evaluated. And they didn't -- 11 there were many things that weren't done. They 12 focused only on the presenting complaint.</p> <p>13      Q. What was the presenting complaint?</p> <p>14      A. It was referred to by the triage nurse as 15 flank pain and chest pain by the EMTs and by the 16 emergency physician Dr. Rigot.</p> <p>17      Q. And what was the history of that 18 complaint?</p> <p>19      A. On the preceding day, Thursday, he had 20 been on a bus and fell striking his chest and hip on 21 concrete, and subsequent to then, had increasing 22 pain, up to 9 on a scale of 10, which was 23 intolerable, and led to his calling for the 24 paramedics to bring him in as seen on the tapes. He 25 felt he was bleeding inside.</p>
<p>1       Q. Do you know what EMTALA is?</p> <p>2       A. Yes.</p> <p>3       Q. What is your understanding of what EMTALA 4 is?</p> <p>5       A. In general terms it is an anti-dumping 6 federal law that for the individual facility that 7 involves evaluating medically any person who seeks 8 attention.</p> <p>9       Q. From your review of the records of Mr. 10 Dunigan's emergency room care, in other words, the 11 the medical records, did you make a determination as 12 to whether his presenting condition was life 13 threatening?</p> <p>14      A. I think on presentation it was potentially 15 life threatening.</p> <p>16      Q. Was it a condition which in your opinion 17 if not treated at that time was likely to cause his 18 death or serious impairment, again as of the time of 19 presentation?</p> <p>20      A. He was evaluated but not treated, and he 21 was perceived to be stable by the health care 22 providers at that time. The standard of care issues 23 regarding their performance, my understanding is, 24 will be addressed by a plaintiff's emergency room 25 physician.</p>	<p>Page 30</p> <p>1       Q. And was there any evidence that he was 2 bleeding inside?</p> <p>3       A. On subsequent evaluation with x-rays did 4 not reveal that. He didn't have any lab work done. 5 But on exam and x-rays he was felt not to be 6 bleeding inside.</p> <p>7       Q. Were his vital signs stable?</p> <p>8       A. His vital signs were abnormal when he 9 arrived. They were repeated when his heart rate 10 dropped from 113 to 90. He had no vitals done prior 11 to discharge as would be the usual case in my 12 experience.</p> <p>13      Q. With the repeat vitals and the heart rate 14 of 90, were the vital signs within normal range?</p> <p>15      A. Yes. They were improved and normal.</p> <p>16      Q. Would it be accurate to say that you did 17 not find Mr. Dunigan to have a life threatening 18 condition from the time he came to the emergency 19 department to the time he was taken to the waiting 20 room?</p> <p>21      A. We have limited information. I don't have 22 enough information to say with confidence that he 23 didn't have a serious or life threatening problem. 24 The focused evaluation regarding his initial 25 complaint did not appear to be life threatening to</p>

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<p>1 the providers. I understand that.</p> <p>2 Q. Are you aware of any evidence that any of</p> <p>3 the health care providers thought that Mr. Dunigan</p> <p>4 had a life threatening condition during that time</p> <p>5 frame?</p> <p>6 A. No. I believe they did not think he had a</p> <p>7 life threatening problem. I understand that.</p> <p>8 Q. What is your understanding as to Mr.</p> <p>9 Dunigan's cause of death?</p> <p>10 A. He had a change in status after his</p> <p>11 discharge from the emergency room, and while waiting</p> <p>12 in the waiting area and during the logistics of</p> <p>13 eviction and subsequent transfer to the police</p> <p>14 vehicle and to jail. He was without vitals signs</p> <p>15 when checked at the jail and died in transit.</p> <p>16 The explanation of that I included in my</p> <p>17 report and I continue to have as my opinion is that</p> <p>18 he had multiple severe medical problems with</p> <p>19 physical and mental impairments, and that the actual</p> <p>20 cause of the death was an altered level of</p> <p>21 consciousness with several potential causes</p> <p>22 including metabolic derangements seen in diabetes</p> <p>23 and with renal failure, arrhythmia through metabolic</p> <p>24 changes in the setting of critical coronary disease,</p> <p>25 pulmonary edema and multiple drugs on board.</p>	<p>Page 33</p> <p>1 when he was due to be dialyzed.</p> <p>2 Q. What is your understanding of when Mr.</p> <p>3 Dunigan was last dialyzed?</p> <p>4 A. I don't have a precise date. He was in</p> <p>5 Borgess recently. The emergency room physician</p> <p>6 thought he just been discharged within days. There</p> <p>7 is no specific mention of when he had last been</p> <p>8 dialyzed. But he had been dialysed twice a week</p> <p>9 there. He was due to be dialyzed on the day that he</p> <p>10 died, so that would, under normal circumstances,</p> <p>11 mean he had not been dialyzed for the two preceding</p> <p>12 days at least.</p> <p>13 Q. And did you note that the history he gave</p> <p>14 was that he had been dialyzed twice that week --</p> <p>15 A. Yes.</p> <p>16 Q. -- and was scheduled later that day?</p> <p>17 A. That he got it twice at Borgess but it</p> <p>18 didn't say, to my recollection, which days that</p> <p>19 week. But in a normal circumstance, he was</p> <p>20 scheduled for Friday. And he was a three times a</p> <p>21 week dialyzed patient, so it would normally be on</p> <p>22 Monday, Wednesday, Friday.</p> <p>23 Q. That would be a reasonable conclusion from</p> <p>24 him saying he had been dialyzed twice that week and</p> <p>25 was scheduled later that day on Friday?</p>
<p>1 Q. Are you able to say which of those</p> <p>2 conditions actually caused his death?</p> <p>3 A. Well, ultimately it is a cardiac arrest,</p> <p>4 cardiopulmonary arrest with arrhythmia. The only</p> <p>5 arrhythmia documented in the jail attempted</p> <p>6 resuscitation was something called pulseless</p> <p>7 electrical activity. And prior to having a monitor</p> <p>8 and the medical personnel arriving 15 minutes after</p> <p>9 his recognized loss of vitals, he had an automated</p> <p>10 electrical defibrillator applied which did not</p> <p>11 identify a shockable arrhythmia which is consistent</p> <p>12 with the pulseless electrical activity. I think</p> <p>13 that was the ultimate thing that lead to his death</p> <p>14 at that time.</p> <p>15 Q. An arrhythmia?</p> <p>16 A. It is an arrhythmia, yes. Actually it is</p> <p>17 -- there is rhythm on an electrical basis without</p> <p>18 pulse. It is a cause of the sudden death referred</p> <p>19 to as an arrhythmia.</p> <p>20 Q. Given Mr. Dunigan's history of end stage</p> <p>21 renal disease, diabetes, coronary artery disease and</p> <p>22 other cardiovascular disease, would he have been at</p> <p>23 an increased risk to suffer an arrhythmia at any</p> <p>24 time?</p> <p>25 A. Yes, particularly on the days prior to</p>	<p>Page 34</p> <p>1 A. I am not sure he said twice that week. I</p> <p>2 thought he said he had it twice at Borgess. He may</p> <p>3 have said twice that week but I think that is a</p> <p>4 reasonable scheduling interval. He would not</p> <p>5 normally be dialyzed on Sunday.</p> <p>6 Q. And not to quibble with the facts, but if</p> <p>7 you assume that the emergency department report by</p> <p>8 Dr. Rigot says, under history of present illness,</p> <p>9 patient admitted discharged from Borgess recently,</p> <p>10 had dialysis twice this week while there. Scheduled</p> <p>11 dialysis tomorrow, open paren, Friday, close paren,</p> <p>12 would it be reasonable from that history to assume</p> <p>13 that he had dialysis twice that week and was</p> <p>14 scheduled to have it again that same day, later in</p> <p>15 the day on Friday?</p> <p>16 A. Yes. Thank you for clarifying that week,</p> <p>17 but when he says he is due to have it tomorrow, it</p> <p>18 is always a question in the middle of the night what</p> <p>19 you call which day. Is that the same day he was</p> <p>20 being seen between 2:00 and 4:00 a.m.</p> <p>21 Q. So given that uncertainty, is it correct</p> <p>22 it would be appropriate for the person taking the</p> <p>23 history to specifically note that tomorrow meant</p> <p>24 Friday because the patient was being seen in the</p> <p>25 middle of the night or early in the morning on</p>

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1	which the following proceedings were held:)	1	or the police officers about any medical problems?
2	Q. (By Mr. O'Loughlin) We can go back on the	2	A. They said that he did not. That is the
3	record.	3	information I have. The only time he made a comment
4	Doctor, from your review of the video or	4	that was worrisome is when they wanted him to stand
5	any other information that you have relating to this	5	up, and he said that his legs weren't ready and he
6	case, are you aware of any evidence that Mr. Dunigan	6	could not stand.
7	after he is taken to the waiting room was ever asked	7	Q. Up to that point had you seen or heard
8	to be seen again by a health care professional?	8	anything, or are you aware of any evidence that Mr.
9	A. People have said he did not, and there was	9	Dunigan ever complained of any medical condition or
10	no indication. On the films I had, it was all	10	asked for care for any medical treatment?
11	visual, not audio, but I have no indication that he	11	A. I am not aware of a request or a
12	did ask to be seen again.	12	complaint.
13	Q. You would agree that Mr. Dunigan in the	13	Q. Are you aware of any time after he went to
14	waiting room up until the time he was asked to leave	14	the waiting room that Mr. Dunigan again presented to
15	was able to ambulate without the assistance of any	15	the emergency department seeking care for a medical
16	other person?	16	condition?
17	MR. HARRINGTON: Objection to form and	17	A. That is to me the same question. He did
18	foundation.	18	not as far as I know.
19	THE WITNESS: Yes. He required mechanical	19	Q. Up to the time that Mr. Dunigan was placed
20	assistance from his cane and furniture but there	20	in the police car, are you aware of any evidence
21	were no other personnel assisting him.	21	that he experienced any respiratory distress?
22	Q. (By Mr. O'Loughlin) Doctor, from your	22	A. No. I am not aware of any respiratory
23	review of the video in the waiting room up until the	23	distress. Unfortunately, the video of his upper
24	time he was asked to leave, did you make an opinion	24	body is blocked by the trauma emergency room sign
25	as to whether Mr. Dunigan exhibited any difficulty	25	but I have no information about respiratory
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1	or distress?	1	distress.
2	A. He was in not in obvious distress. He was	2	Q. Up to the time he was placed in the police
3	somnolent and sleeping with diminished level of	3	car, are you aware of any evidence indicating that
4	consciousness much of the time, but there was no	4	Mr. Dunigan lost consciousness?
5	obvious distress to my review. And there was no	5	A. Only the diminished level of consciousness
6	disruptive behavior.	6	associated with sleep is what I am aware of.
7	Q. I am sorry. But from your review of that	7	Q. Okay. Up to the time he was placed in the
8	video up until the time he was asked to leave, did	8	police car, are you aware of any evidence that Mr.
9	it appear that Mr. Dunigan was at times trying to	9	Dunigan was obtunded, O-B-T-U-N-D-E-D?
10	sleep in chairs or a chair in different locations?	10	A. Again, it is an interpretation of someone
11	MR. HARRINGTON: Object to form and	11	who has diminished level of consciousness. I
12	foundation.	12	thought he was most likely asleep, not obtunded.
13	THE WITNESS: That appeared to be the	13	Obtunded to me means he is unarousable, but if no
14	case. He would move from one single chair to a	14	one is checking I can't tell what his real level of
15	double chair and put his leg up over the rails and	15	consciousness is.
16	had his head down. It didn't look like he slept	16	Q. Are you aware of evidence that he was
17	much because he was periodically moving to try to	17	speaking with the security officers and the police
18	get more comfortable, it looked like.	18	officers?
19	Q. (By Mr. O'Loughlin) Would you consider	19	A. He did speak some. They said he was
20	that normal behavior for anybody attempting to sleep	20	mumbling a lot. The main thing I recall is when
21	in chairs in a waiting room, or an airport or any	21	they asked him to leave, he asked to be taken to
22	place like that?	22	jail. I guess that was interpretable because it was
23	A. I think it is common behavior, yes.	23	also overheard by people at the triage registration
24	Q. Are you aware of any evidence that Mr.	24	desk.
25	Dunigan ever made a complaint to security officers	25	Q. You would not interpret that statement as

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<p>1 understand why they didn't interpret it that way.</p> <p>2 Q. But you are concerned that they didn't</p> <p>3 interpret it that way, true?</p> <p>4 A. Why else would he have called himself a</p> <p>5 scape goat from the security guards in regards to</p> <p>6 the police officers' testimony that he was</p> <p>7 sandbagged by information that was inaccurate.</p> <p>8 Shoemaker said he was up walking around without</p> <p>9 assistance. Shoemaker wasn't even there.</p> <p>10 Q. Do you recall my question?</p> <p>11 A. Yes.</p> <p>12 Q. Would you answer it please?</p> <p>13 A. I just did.</p> <p>14 MR. HARRINGTON: Asked and answered.</p> <p>15 Q. (By Mr. O'Loughlin) My question was, I</p> <p>16 believe, Doctor, I heard you are concerned that</p> <p>17 neither the security officers nor the police</p> <p>18 officers believed and recognized that Mr. Dunigan</p> <p>19 was in -- had some serious medical problem?</p> <p>20 A. What's the question? There was no</p> <p>21 question in that.</p> <p>22 Q. Do you agree -- you would agree that</p> <p>23 neither the security officers nor the police</p> <p>24 officers actually recognized that Mr. Dunigan had</p> <p>25 any sort of medical problem, true?</p>	<p>Page 65</p> <p>1 follow directions. I have no indications he did</p> <p>2 not.</p> <p>3 Q. Was Mr. Dunigan, as a presumed reasonable</p> <p>4 person, obligated to advise someone if he was having</p> <p>5 a severe medical problem?</p> <p>6 A. If he was capable of it, yes.</p> <p>7 Q. And was able to do so?</p> <p>8 A. Right. If he was capable of it.</p> <p>9 Q. Based upon your review, are you aware of</p> <p>10 whether Mr. Dunigan was compliant with his</p> <p>11 recommended dialysis schedule?</p> <p>12 A. There are references in the Borgess record</p> <p>13 that he, at times, was not compliant with his</p> <p>14 dialysis schedule or other things.</p> <p>15 Q. Do you agree that he did have end of stage</p> <p>16 renal disease?</p> <p>17 A. Yes.</p> <p>18 Q. Probably to effect the result of not</p> <p>19 complying with a dialysis schedule to be with a</p> <p>20 patient with end stage renal disease?</p> <p>21 A. He was still making urine and taking</p> <p>22 diuretics, and it is not clear what the consequences</p> <p>23 of skipping a dialysis session were in those</p> <p>24 records.</p> <p>25 Q. Are you talking in general that would</p>
<p>1 A. I think they did not recognize it.</p> <p>2 Q. You think they did not recognize it, is</p> <p>3 that what you said?</p> <p>4 A. Yes. I have said that right along.</p> <p>5 Q. In your expert opinion, did Mr. Dunigan</p> <p>6 have any responsibility for the events in this case?</p> <p>7 MR. HARRINGTON: Objection to form and</p> <p>8 foundation, broad, vague, ambiguous.</p> <p>9 THE WITNESS: I think he is not the</p> <p>10 responsible party.</p> <p>11 Q. (By Mr. O'Loughlin) Based upon all you</p> <p>12 have reviewed, you are of the opinion Mr. Dunigan is</p> <p>13 not responsible for any of the events in this case?</p> <p>14 MR. HARRINGTON: Objection to form and</p> <p>15 foundation. I am sorry, counsel, it is really,</p> <p>16 really broad. I don't know what you mean.</p> <p>17 THE WITNESS: There are a lot of events,</p> <p>18 what time are you talking about?</p> <p>19 Q. (BY Mr. O'Loughlin) Was Mr. Dunigan</p> <p>20 obligated in your opinion to provide an accurate</p> <p>21 medical history in the emergency room?</p> <p>22 A. Yes.</p> <p>23 Q. Was Mr. Dunigan, in your opinion,</p> <p>24 obligated to follow sufficient recommendations?</p> <p>25 A. Yes. I think he has some obligations to</p>	<p>Page 66</p> <p>1 affect the consequences of failure in keeping to the</p> <p>2 dialysis schedule to be a patient with end stage</p> <p>3 renal disease would be?</p> <p>4 A. He could feel worse at the time when he</p> <p>5 didn't get his dialysis from fluid overload or other</p> <p>6 issues related to his health.</p> <p>7 Q. The article that you chose to look at from</p> <p>8 the National Kidney Foundation, you believe that to</p> <p>9 be authoritative?</p> <p>10 A. Not necessarily. It is intended for</p> <p>11 patients, and it gives broad answers to frequently</p> <p>12 asked questions.</p> <p>13 Q. Do you believe it is reliable?</p> <p>14 A. I think it is a reliable source. And I</p> <p>15 have no reason to think it is not reliable. It is</p> <p>16 not authoritative. It doesn't have the authors and</p> <p>17 the references to each and every comment made in it.</p> <p>18 Q. Actually it has, Doctor. It has about 167</p> <p>19 references, does it not?</p> <p>20 A. No. It is four pages and no references.</p> <p>21 Q. Oh, I am sorry. I was looking at the</p> <p>22 UpToDate information. The UpToDate information has</p> <p>23 167 references, true?</p> <p>24 A. Yes. It is a different style document</p> <p>25 from the electronic data base.</p>

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1 EMTALA statute say?	1 symptoms, such that the absence of immediate medical
2 A. I am not an experienced person with it. I	2 attention would be expected to result in his death,
3 wouldn't pretend to be an expert. I have been	3 true?
4 instructed about how to apply it to my practice and	4 A. No. In 9 and out of 10 pain --
5 I know the emergency room facility people have been	5 Q. True?
6 instructed about how to apply it to them.	6 A. He had 9 out of 10 chest pain and I think
7 Q. What does EMTALA stand for?	7 you cannot say based on his presentation that he
8 A. It is not -- in broad lay terms, it is a	8 didn't have anything life threatening. That's why
9 no dumping law where if somebody comes to you, you	9 he was there.
10 can't just send them away without having at least	10 Q. Okay. But you are not, as I understood
11 done a screening medical evaluation if they request	11 earlier, you are not critical of the evaluation he
12 it.	12 received in the emergency department, are you?
13 Q. Do you understand that EMTALA is an	13 A. I am not. You are talking about when he
14 acronym?	14 presented.
15 A. Yes.	15 Q. And what you are saying that his symptoms
16 Q. Do you know what it is an acronym for?	16 of 9 out of 10 chest pain in and of themselves could
17 A. It is emergency medicine treatment and	17 be a life-threatening condition?
18 then I don't know the rest of the numbers or names.	18 A. Sure. In a complicated man with
19 It is not too important to me.	19 dialysis, diabetes, heart disease, hypertension and
20 Q. Do you know what the statute says?	20 previous stroke and dizzy.
21 A. I told you what I have been told. I have	21 Q. And with the specific history he gave of a
22 not read the law and I do not know what the statute	22 mechanical fall and trauma to his chest or flank,
23 says. I have had it interpreted to me by risk	23 would that explain the source of those same
24 management people for the hospital as well as	24 complaints?
25 emergency, the head of the emergency room who deal	25 A. That was the emergency room physician's
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1 with it every day. My kind of involvement was with	1 interpretation. The actual evidence that was a
2 inner facility transport, transfers.	2 mechanical fall, that his cane tip slipped or
3 Q. Do you claim that EMTALA was in any way	3 something happened is something I don't see in the
4 violated by Bronson Hospital up to the point that	4 record. The nurse said he was dizzy, and the
5 Mr. Dunigan was discharged from the emergency	5 patient struck the ground after a fall. There was
6 department and wheeled into the waiting room?	6 no loss of consciousness, despite what Dr. Schwartz
7 A. No.	7 says, and I think it probably is a mechanical fall.
8 Q. I think this was covered earlier but I	8 But it is not a mechanical fall as described by the
9 should cover it again. Do you know of any evidence	9 patient, I didn't think.
10 that while on Bronson's premises any Bronson	10 That was the conclusion made, but I think
11 employee actually recognized and had actual	11 that to ignore the fact that the guy had heart
12 knowledge that Mr. Dunigan had an emergency medical	12 disease, was dizzy, and not evaluate his cardiac
13 condition?	13 condition is one of the questions in the care that I
14 MR. HARRINGTON: Form and foundation.	14 assume will be addressed by the emergency room
15 THE WITNESS: No. It is their subsequent	15 expert for the plaintiffs. That is Saul Levine.
16 testimony that they did not think he had an	16 Q. Did Mr. Dunigan give the history that his
17 emergency.	17 chest pain complaints were caused by a fall where he
18 Q. (By Mr. O'Loughlin) You are not aware of	18 hit his chest or right flank?
19 any evidence to the contrary, true?	19 A. Yes, but that's not to say it is
20 MR. HARRINGTON: Foundation and form.	20 mechanical, if you are dizzy. Dr. Schartz thinks he
21 THE WITNESS: About their thoughts, I have	21 arrhythmia then. I don't see evidence for either as
22 no other information.	22 being definitive. I suppose you can call it a
23 Q. (By Mr. O'Loughlin) At the time he	23 mechanical fall because he hit the ground, but what
24 initially came to the emergency department via EMS,	24 caused the fall. That is the ultimate question
25 you would agree that Mr. Dunigan did not have severe	25 about whether it is mechanical or not.

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<p>1       Q.   Given his history of a fall, which the  2   patient reported, was the source of his chest pain  3   was he reasonably screened when he was in the  4   emergency department?</p> <p>5            MR. HARRINGTON: Objection to form.</p> <p>6            THE WITNESS: You want to talk standard of  7   care for the emergency room evaluation? I thought  8   that was going to be somebody else?</p> <p>9            MR. HARRINGTON: Doctor, go ahead. He  10   asked you a question. Go ahead and answer as you  11   see fit.</p> <p>12           THE WITNESS: I think anybody with a known  13   cardiac disease, previous MI on dialysis with a fall  14   with chest discomfort needs to be put on an EKG  15   monitor and have a 12-lead electrocardiogram done at  16   a minimum, as well as having lab work done about the  17   status of his metabolic situation as a diabetic with  18   end stage renal disease.</p> <p>19           Q.   Do you recognize this is not a negligence  20   or a malpractice case?</p> <p>21           A.   Yes.</p> <p>22           MR. HARRINGTON: Well, I would object.  23   That is currently pending in this action.</p> <p>24           MR. O'LOUGHLIN: That is the one we are  25   taking the deposition in, Jim. I guess we are going</p>	<p>1       complaint that wouldn't have been things that I  2   would have been responsible for, or the way I would  3   have said them. They were prepared at the beginning  4   of the case by the attorneys involved and some of  5   the things in that are not the things that I would  6   have put in.</p> <p>7       Q.   Do you recall my question?</p> <p>8       A.   Yes.</p> <p>9       Q.   My question was, among the things you  10   reviewed, on the list of things that you reviewed  11   were the Complaint and Amended Complaint, true?</p> <p>12       A.   Yes.</p> <p>13       Q.   Do you understand the case against Bronson  14   Methodist Hospital are pending currently in federal  15   court in which they supposedly today allege any  16   liability on the part of Bronson other than for an  17   alleged violation of EMTALA?</p> <p>18       A.   I think that is the bulk of the Complaint.  19   What I am referring to is the historical description  20   in the Complaint that describes his condition.</p> <p>21       Q.   Assuming that the only theory of liability  22   against Bronson, in this pending lawsuit, is for a  23   violation of EMTALA. You have agreed that Bronson  24   did not violate EMTALA at any point up until Mr.  25   Dunigan was discharged from the emergency room</p>
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<p>1   to have to take his deposition again.</p> <p>2           MR. HARRINGTON: Yes, I know. We will.</p> <p>3   That's what I am saying, we will. When you said  4   this case, I don't know if you are referring to  5   solely the case number, you know, that has a EMTALA  6   case or in a broad sense the case referring to the  7   care and treatment of Mr. Dunigan.</p> <p>8           MR. O'LOUGHLIN: To my knowledge there is  9   no other case.</p> <p>10          MR. HARRINGTON: Not yet.</p> <p>11          MR. O'LOUGHLIN: Which means at present,  12   when I am asking the question there is no other  13   case, true?</p> <p>14          MR. HARRINGTON: No, there has not been  15   one filed. I just want to make sure our definitions  16   of the case are the same. Sometimes physicians  17   would use the word case as in the entire care and  18   treatment of the patient, and sometimes us lawyers  19   when we say case, all we are referring to is just  20   the current case number. That is all. I just want  21   to make sure we are on the same page.</p> <p>22          Q.   (By Mr. O'Loughlin) Doctor, amongst the  23   things you reviewed were the Complaint and Amended  24   Complaint, true?</p> <p>25          A.   I think there were comments in the</p>	<p>1   department to the waiting room, true?</p> <p>2       A.   Yeah. I think I said that before.</p> <p>3       Q.   After that time you would agree that there  4   was never another time when Mr. Dunigan presented to  5   the emergency room department seeking medical care,  6   true?</p> <p>7       A.   True.</p> <p>8       Q.   And you agree that based upon your review  9   and everything you have seen in the case, no one  10   from Bronson Hospital ever actually determined that  11   Mr. Dunigan had a life-threatening emergency medical  12   condition, true?</p> <p>13       MR. HARRINGTON: Objection to form.</p> <p>14       THE WITNESS: Yes. There is nothing that  15   says they thought that. No one asked him if he  16   wanted to be seen again as far as I could tell.</p> <p>17       Q.   (By Mr. O'Loughlin) And he never said he  18   wanted to be seen again, true?</p> <p>19       A.   Again, true.</p> <p>20       Q.   Mr. Harrington asked you about the nurses  21   interaction with Mr. Dunigan, and I believe he was  22   referring to him while he was in the waiting room.</p> <p>23   Are you aware of any intervention between the nurses  24   or medical assistants sitting at the desk in the  25   video and Mr. Dunigan?</p>